

REMARKS

Claims 3, 6 and 7 have been rejected under 35 USC 112, second paragraph. Claim 6 has been amended.

Claims 2 and 5-7 have rejected under 35 USC 102(e) as anticipated by Dunn. The rejection is respectfully traversed for the reasons presented in the amendment filed May 3, 2004, and for the following reasons.

In *Response to Arguments*, in paragraph 13, page 5 of the Office Action, the Examiner comments that Dunn discloses that the negotiation parameters are pre-defined in a network profile (col. 1, lines 59-63), and that the authorized services and transmission paths are defined as negotiated (col. 4, lines 42-45). Applicant's respectfully disagree with the Examiner.

The Examiner appears to assume that the pre-defined network profile was defined by a user's selection, but that is not supported by the text. In fact, Dunn states that "A user has little or no control over the call transmission routing or type of service or bandwidth except through contact with the telephone company to change the user profile stored in the SCP." (See, col. 3, lines 23-26). Additionally, Dunn states that "the authorized services...[are displayed] as negotiated..." Again, no mention is made of how the service was in fact negotiated.

The Examiner also states that there is no subsequent negotiation of the QoS parameters since all the available selections are already negotiated (paragraph 13, page 5). Dunn specifically states that the invention "enables a user to select, in real time and prior to use, voice and/or data communications needs and transmission paths in the network, independent of pre-defined network profiles." (See, col. 1, line 65- col. 2, line 4). However, in the claimed invention, there is no need for real-time altering of a user profile, since there is no need of a profile for the user. This is accomplished rather through the SETUP command in the instant invention.

Since the recited structure and method are not disclosed by the applied prior art, either alone or in combination, claims 5 and 6 are patentable. Claims 3 and 7, depending from claims 5 and 6 respectively, are similarly patentable.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **449122017400**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: November 9, 2004

Respectfully submitted,

By 

Kevin R. Spivak

Registration No.: 43,148

MORRISON & FOERSTER LLP

2000 Pennsylvania Avenue, NW Suite 5500

Washington, DC 20006

(202) 887-1525